

HB 2466 - S COMM AMD

By Committee on International Trade & Economic Development

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW
4 to read as follows:

5 (1) The tax levied by RCW 82.08.020 does not apply to sales of
6 computer hardware, computer peripherals, or software, used primarily in
7 aerospace product development, or to sales of or charges made for labor
8 and services rendered in respect to installing the computer hardware,
9 computer peripherals, or software. The exemption is available only
10 when the buyer provides the seller with an exemption certificate in a
11 form and manner prescribed by the department. The seller shall retain
12 a copy of the certificate for the seller's files.

13 (2) As used in this section:

14 (a) "Aerospace product development" means research, design, and
15 engineering activities performed in relation to the development of:

16 (i) Commercial airplanes and components of such airplanes;

17 (ii) Tooling that is used in the manufacture of commercial
18 airplanes or components of such airplanes;

19 (iii) Maintenance, repair, or overhaul support equipment that is
20 used by airlines or others in the aftermarket support of commercial
21 airplanes;

22 (iv) Ground support equipment, including service, maintenance, and
23 test equipment, that is used by airlines or others to support
24 aeronautical operations and related activities; or

25 (v) General aviation aircraft and components of such aircraft.

26 (b) "Commercial airplane" and "component" have the meanings
27 provided in RCW 82.32.550.

28 (c) "General aviation aircraft" means aircraft used in that segment
29 of civil aviation that encompasses all facets of aviation except air
30 carriers, commuter, and military. It includes aircraft used for

1 charter and corporate-executive transportation, instruction, rental,
2 aerial application, aerial observation, business, pleasure, and other
3 special uses.

4 (d) "Peripherals" includes keyboards, monitors, mouse devices, and
5 other accessories that operate outside of the computer, excluding
6 cables, conduit, wiring, and other similar property.

7 (3) This section expires July 1, 2024.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW
9 to read as follows:

10 (1) The provisions of this chapter do not apply in respect to the
11 use of computer hardware, computer peripherals, or software, used
12 primarily in aerospace product development, or to the use of labor and
13 services rendered in respect to installing the computer hardware,
14 computer peripherals, or software.

15 (2) The definitions in section 1 of this act apply to this section.

16 (3) This section expires July 1, 2024.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW
18 to read as follows:

19 (1) In computing the tax imposed under this chapter, a credit is
20 allowed for each person for qualified aerospace product development
21 expenditures occurring after the effective date of this section.

22 (2) The credit is equal to the amount of qualified aerospace
23 product development expenditures of a person, multiplied by the rate of
24 1.5 percent.

25 (3) The credit shall be taken against taxes due for the same
26 calendar year in which the qualified aerospace product development
27 expenditures are incurred. Credits may not be carried over. The
28 credit for each calendar year may not exceed the amount of tax
29 otherwise due under this chapter for the calendar year. Refunds may
30 not be granted in the place of a credit.

31 (4) Any person entitled to the credit in this section as a result
32 of qualified aerospace product development conducted under contract may
33 assign all or any portion of the credit to the person contracting for
34 the performance of the qualified aerospace product development.

35 (5) The definitions in this subsection apply throughout this
36 section.

1 (a)(i) "Aerospace product development" means research, design, and
2 engineering activities performed in relation to the development of a
3 product, product line, model, or model derivative, including prototype
4 development, testing, and certification. The development of a product,
5 product line, model, or model derivative, shall be for:

6 (A) Commercial airplanes and components of such airplanes;

7 (B) Tooling that is used in the manufacture of commercial airplanes
8 or components of such airplanes;

9 (C) Maintenance, repair, or overhaul support equipment that is used
10 by airlines or others in the aftermarket support of commercial
11 airplanes;

12 (D) Ground support equipment, including service, maintenance, and
13 test equipment, that is used by airlines or others to support
14 aeronautical operations and related activities; or

15 (E) General aviation aircraft and components of such aircraft.

16 (ii) "Aerospace product development" includes the discovery of
17 technological information, the translating of technological information
18 into new or improved products, processes, techniques, formulas, or
19 inventions, and the adaptation of existing products and models into new
20 products or new models, or derivatives of products or models. The term
21 does not include manufacturing activities or other production-oriented
22 activities. The term does not include surveys and studies, social
23 science and humanities research, market research or testing, quality
24 control, sale promotion and service, computer software developed for
25 internal use, and research in areas such as improved style, taste, and
26 seasonal design.

27 (b) "General aviation aircraft" means aircraft used in that segment
28 of civil aviation that encompasses all facets of aviation except air
29 carriers, commuter, and military. It includes aircraft used for
30 charter and corporate-executive transportation, instruction, rental,
31 aerial application, aerial observation, business, pleasure, and other
32 special uses.

33 (c) "Qualified aerospace product development" means aerospace
34 product development performed within this state.

35 (d) "Qualified aerospace product development expenditures" means
36 operating expenses, including wages, compensation of a proprietor or a
37 partner in a partnership as determined by the department, benefits,
38 supplies, and computer expenses, directly incurred in qualified

1 aerospace product development by a person claiming the credit provided
2 in this section. The term does not include amounts paid to a person
3 other than a public educational or research institution to conduct
4 qualified aerospace product development. The term does not include
5 capital costs and overhead, such as expenses for land, structures, or
6 depreciable property.

7 (6) Credit may not be claimed for expenditures for which a credit
8 is claimed under RCW 82.04.4452 or 82.04.4461.

9 (7) This section expires July 1, 2024.

10 **Sec. 4.** RCW 82.04.250 and 2003 2nd sp.s. c 1 s 2 are each amended
11 to read as follows:

12 (1) Upon every person (~~((except persons taxable under RCW 82.04.260~~
13 ~~(5) or (13), 82.04.272, or subsection (2) of this section))~~) engaging
14 within this state in the business of making sales at retail, except
15 persons taxable as retailers under other provisions of this chapter, as
16 to such persons, the amount of tax with respect to such business shall
17 be equal to the gross proceeds of sales of the business, multiplied by
18 the rate of 0.471 percent.

19 (2) Upon every person engaging within this state in the business of
20 making sales at retail that are exempt from the tax imposed under
21 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or
22 82.08.0263, except persons taxable under RCW 82.04.260 ((+13+)) (11) or
23 (12), or subsection (3) of this section, as to such persons, the amount
24 of tax with respect to such business shall be equal to the gross
25 proceeds of sales of the business, multiplied by the rate of 0.484
26 percent.

27 (3) Until July 1, 2011, upon every person engaging within this
28 state in the business of making sales at retail that are exempt from
29 the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261,
30 82.08.0262, or 82.08.0263, that is classified by the federal aviation
31 administration as a FAR part 145 certificated repair station with
32 airframe and instrument ratings and limited ratings for nondestructive
33 testing, radio, class 3 accessory, and specialized services, as to such
34 persons, the amount of tax with respect to such business shall be equal
35 to the gross proceeds of sales of the business, multiplied by the rate
36 of .2904 percent.

1 **Sec. 5.** RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are
2 each reenacted and amended to read as follows:

3 (1) Upon every person engaging within this state in the business of
4 manufacturing:

5 (a) Wheat into flour, barley into pearl barley, soybeans into
6 soybean oil, canola into canola oil, canola meal, or canola byproducts,
7 or sunflower seeds into sunflower oil; as to such persons the amount of
8 tax with respect to such business shall be equal to the value of the
9 flour, pearl barley, oil, canola meal, or canola byproduct
10 manufactured, multiplied by the rate of 0.138 percent;

11 (b) Seafood products which remain in a raw, raw frozen, or raw
12 salted state at the completion of the manufacturing by that person; as
13 to such persons the amount of tax with respect to such business shall
14 be equal to the value of the products manufactured, multiplied by the
15 rate of 0.138 percent;

16 (c) Dairy products that as of September 20, 2001, are identified in
17 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts
18 from the manufacturing of the dairy products such as whey and casein;
19 or selling the same to purchasers who transport in the ordinary course
20 of business the goods out of state; as to such persons the tax imposed
21 shall be equal to the value of the products manufactured multiplied by
22 the rate of 0.138 percent. As proof of sale to a person who transports
23 in the ordinary course of business goods out of this state, the seller
24 shall annually provide a statement in a form prescribed by the
25 department and retain the statement as a business record;

26 (d) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
27 feedstock, as those terms are defined in RCW 82.29A.135; as to such
28 persons the amount of tax with respect to the business shall be equal
29 to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
30 manufactured, multiplied by the rate of 0.138 percent; and

31 (e) Alcohol fuel or wood biomass fuel, as those terms are defined
32 in RCW 82.29A.135; as to such persons the amount of tax with respect to
33 the business shall be equal to the value of alcohol fuel or wood
34 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

35 (2) Upon every person engaging within this state in the business of
36 splitting or processing dried peas; as to such persons the amount of
37 tax with respect to such business shall be equal to the value of the
38 peas split or processed, multiplied by the rate of 0.138 percent.

1 (3) Upon every nonprofit corporation and nonprofit association
2 engaging within this state in research and development, as to such
3 corporations and associations, the amount of tax with respect to such
4 activities shall be equal to the gross income derived from such
5 activities multiplied by the rate of 0.484 percent.

6 (4) Upon every person engaging within this state in the business of
7 slaughtering, breaking and/or processing perishable meat products
8 and/or selling the same at wholesale only and not at retail; as to such
9 persons the tax imposed shall be equal to the gross proceeds derived
10 from such sales multiplied by the rate of 0.138 percent.

11 (5) Upon every person engaging within this state in the business of
12 acting as a travel agent or tour operator; as to such persons the
13 amount of the tax with respect to such activities shall be equal to the
14 gross income derived from such activities multiplied by the rate of
15 0.275 percent.

16 (6) Upon every person engaging within this state in business as an
17 international steamship agent, international customs house broker,
18 international freight forwarder, vessel and/or cargo charter broker in
19 foreign commerce, and/or international air cargo agent; as to such
20 persons the amount of the tax with respect to only international
21 activities shall be equal to the gross income derived from such
22 activities multiplied by the rate of 0.275 percent.

23 (7) Upon every person engaging within this state in the business of
24 stevedoring and associated activities pertinent to the movement of
25 goods and commodities in waterborne interstate or foreign commerce; as
26 to such persons the amount of tax with respect to such business shall
27 be equal to the gross proceeds derived from such activities multiplied
28 by the rate of 0.275 percent. Persons subject to taxation under this
29 subsection shall be exempt from payment of taxes imposed by chapter
30 82.16 RCW for that portion of their business subject to taxation under
31 this subsection. Stevedoring and associated activities pertinent to
32 the conduct of goods and commodities in waterborne interstate or
33 foreign commerce are defined as all activities of a labor, service or
34 transportation nature whereby cargo may be loaded or unloaded to or
35 from vessels or barges, passing over, onto or under a wharf, pier, or
36 similar structure; cargo may be moved to a warehouse or similar holding
37 or storage yard or area to await further movement in import or export
38 or may move to a consolidation freight station and be stuffed,

1 unstuffed, containerized, separated or otherwise segregated or
2 aggregated for delivery or loaded on any mode of transportation for
3 delivery to its consignee. Specific activities included in this
4 definition are: Wharfage, handling, loading, unloading, moving of
5 cargo to a convenient place of delivery to the consignee or a
6 convenient place for further movement to export mode; documentation
7 services in connection with the receipt, delivery, checking, care,
8 custody and control of cargo required in the transfer of cargo;
9 imported automobile handling prior to delivery to consignee; terminal
10 stevedoring and incidental vessel services, including but not limited
11 to plugging and unplugging refrigerator service to containers,
12 trailers, and other refrigerated cargo receptacles, and securing ship
13 hatch covers.

14 (8) Upon every person engaging within this state in the business of
15 disposing of low-level waste, as defined in RCW 43.145.010; as to such
16 persons the amount of the tax with respect to such business shall be
17 equal to the gross income of the business, excluding any fees imposed
18 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

19 If the gross income of the taxpayer is attributable to activities
20 both within and without this state, the gross income attributable to
21 this state shall be determined in accordance with the methods of
22 apportionment required under RCW 82.04.460.

23 (9) Upon every person engaging within this state as an insurance
24 agent, insurance broker, or insurance solicitor licensed under chapter
25 48.17 RCW; as to such persons, the amount of the tax with respect to
26 such licensed activities shall be equal to the gross income of such
27 business multiplied by the rate of 0.484 percent.

28 (10) Upon every person engaging within this state in business as a
29 hospital, as defined in chapter 70.41 RCW, that is operated as a
30 nonprofit corporation or by the state or any of its political
31 subdivisions, as to such persons, the amount of tax with respect to
32 such activities shall be equal to the gross income of the business
33 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
34 percent thereafter. The moneys collected under this subsection shall
35 be deposited in the health services account created under RCW
36 43.72.900.

37 (11)(a) Beginning October 1, 2005, upon every person engaging
38 within this state in the business of manufacturing commercial

1 airplanes, or components of such airplanes, as to such persons the
2 amount of tax with respect to such business shall, in the case of
3 manufacturers, be equal to the value of the product manufactured, or in
4 the case of processors for hire, be equal to the gross income of the
5 business, multiplied by the rate of:

6 (i) 0.4235 percent from October 1, 2005, through the later of June
7 30, 2007, or the day preceding the date final assembly of a
8 superefficient airplane begins in Washington state, as determined under
9 RCW 82.32.550; and

10 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
11 date final assembly of a superefficient airplane begins in Washington
12 state, as determined under RCW 82.32.550.

13 (b) Beginning October 1, 2005, upon every person engaging within
14 this state in the business of making sales, at retail or wholesale, of
15 commercial airplanes, or components of such airplanes, manufactured by
16 that person, as to such persons the amount of tax with respect to such
17 business shall be equal to the gross proceeds of sales of the airplanes
18 or components multiplied by the rate of:

19 (i) 0.4235 percent from October 1, 2005, through the later of June
20 30, 2007, or the day preceding the date final assembly of a
21 superefficient airplane begins in Washington state, as determined under
22 RCW 82.32.550; and

23 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
24 date final assembly of a superefficient airplane begins in Washington
25 state, as determined under RCW 82.32.550.

26 (c) For the purposes of this subsection (11), "commercial
27 airplane," "component," and "final assembly of a superefficient
28 airplane" have the meanings given in RCW 82.32.550.

29 (d) In addition to all other requirements under this title, a
30 person eligible for the tax rate under this subsection (11) must report
31 as required under RCW 82.32.545.

32 (e) This subsection (11) does not apply after the earlier of: July
33 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
34 does not begin by December 31, 2007, as determined under RCW 82.32.550.

35 (12)(a) Upon every person engaging within this state in the
36 business of manufacturing the following: (i) Tooling that is used in
37 the manufacture of commercial airplanes or components of such
38 airplanes; (ii) maintenance, repair, or overhaul support equipment that

1 is used by airlines or others in the aftermarket support of commercial
2 airplanes; (iii) ground support equipment, including service,
3 maintenance, and test equipment, that is used by airlines or others in
4 support of commercial airplanes; or (iv) general aviation aircraft, as
5 defined in section 3 of this act, or components of such aircraft; as to
6 such persons the amount of the tax with respect to the business shall,
7 in the case of manufacturers, be equal to the value of the product
8 manufactured, or in the case of processors for hire, be equal to the
9 gross income of the business, multiplied by the rate of 0.2904 percent.

10 (b) Upon every person engaging within this state in the business of
11 making sales, at retail or wholesale, of the following: (i) Tooling
12 that is used in the manufacture of commercial airplanes or components
13 of such airplanes; (ii) maintenance, repair, or overhaul support
14 equipment that is used by airlines or others in the aftermarket support
15 of commercial airplanes; (iii) ground support equipment, including
16 service, maintenance, and test equipment, that is used by airlines or
17 others in support of commercial airplanes; or (iv) general aviation
18 aircraft, as defined in section 3 of this act, or components of such
19 aircraft; as to such persons the amount of the tax with respect to the
20 business shall be equal to the gross proceeds of sales, multiplied by
21 the rate of 0.2904 percent.

22 NEW SECTION. Sec. 6. A new section is added to chapter 82.04 RCW
23 to read as follows:

24 (1) In computing the tax imposed under this chapter, a credit is
25 allowed for property taxes paid during the calendar year.

26 (2) The credit is equal to:

27 (a)(i) Property taxes paid on new buildings, and land upon which
28 this property is located, built after the effective date of this act,
29 and used exclusively in manufacturing:

30 (A) Tooling that is used in the manufacture of commercial airplanes
31 or components of such airplanes;

32 (B) Maintenance, repair, or overhaul support equipment that is used
33 by airlines or others in the aftermarket support of commercial
34 airplanes;

35 (C) Ground support equipment, including service, maintenance, and
36 test equipment, that is used by airlines or others to support
37 aeronautical operations and related activities; or

1 (D) General aviation aircraft and components of such aircraft; or
2 (ii) Property taxes attributable to an increase in assessed value
3 due to the renovation or expansion, after the effective date of this
4 act, of a building used exclusively in manufacturing activities
5 described in (a)(i)(A) through (D) of this subsection; and

6 (b) Property taxes paid on machinery and equipment exempt under RCW
7 82.08.02565 or 82.12.02565 and used exclusively in the manufacturing
8 activities described in (a)(i)(A) through (D) of this subsection.

9 (3) A person taking the credit under this section is subject to all
10 the requirements of chapter 82.32 RCW. A credit earned during one
11 calendar year may be carried over to be credited against taxes incurred
12 in a subsequent calendar year, but may not be carried over a second
13 year. No refunds may be granted for credits under this section.

14 (4) In addition to all other requirements under this title, a
15 person taking the credit under this section must report as required
16 under section 8 of this act.

17 (5) A person shall not take a credit under this section and RCW
18 82.04.4463.

19 (6) This section expires July 1, 2024.

20 **Sec. 7.** RCW 82.04.440 and 2005 c 301 s 3 are each amended to read
21 as follows:

22 (1) Every person engaged in activities which are within the purview
23 of the provisions of two or more of sections RCW 82.04.230 to
24 82.04.298, inclusive, shall be taxable under each paragraph applicable
25 to the activities engaged in.

26 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,
27 82.04.294(2), or 82.04.260 (4) (~~(or (13))~~), (11), or (12) with respect
28 to selling products in this state shall be allowed a credit against
29 those taxes for any (a) manufacturing taxes paid with respect to the
30 manufacturing of products so sold in this state, and/or (b) extracting
31 taxes paid with respect to the extracting of products so sold in this
32 state or ingredients of products so sold in this state. Extracting
33 taxes taken as credit under subsection (3) of this section may also be
34 taken under this subsection, if otherwise allowable under this
35 subsection. The amount of the credit shall not exceed the tax
36 liability arising under this chapter with respect to the sale of those
37 products.

1 (3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be
2 allowed a credit against those taxes for any extracting taxes paid with
3 respect to extracting the ingredients of the products so manufactured
4 in this state. The amount of the credit shall not exceed the tax
5 liability arising under this chapter with respect to the manufacturing
6 of those products.

7 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),
8 82.04.294(1), or 82.04.260 (1), (2), (4), (~~((6), or (13))~~) (11), or
9 (12) with respect to extracting or manufacturing products in this state
10 shall be allowed a credit against those taxes for any (i) gross
11 receipts taxes paid to another state with respect to the sales of the
12 products so extracted or manufactured in this state, (ii) manufacturing
13 taxes paid with respect to the manufacturing of products using
14 ingredients so extracted in this state, or (iii) manufacturing taxes
15 paid with respect to manufacturing activities completed in another
16 state for products so manufactured in this state. The amount of the
17 credit shall not exceed the tax liability arising under this chapter
18 with respect to the extraction or manufacturing of those products.

19 (5) For the purpose of this section:

20 (a) "Gross receipts tax" means a tax:

21 (i) Which is imposed on or measured by the gross volume of
22 business, in terms of gross receipts or in other terms, and in the
23 determination of which the deductions allowed would not constitute the
24 tax an income tax or value added tax; and

25 (ii) Which is also not, pursuant to law or custom, separately
26 stated from the sales price.

27 (b) "State" means (i) the state of Washington, (ii) a state of the
28 United States other than Washington, or any political subdivision of
29 such other state, (iii) the District of Columbia, and (iv) any foreign
30 country or political subdivision thereof.

31 (c) "Manufacturing tax" means a gross receipts tax imposed on the
32 act or privilege of engaging in business as a manufacturer, and
33 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2909(1),
34 82.04.260 (1), (2), (4), (11), and (~~((13))~~) (12), and 82.04.294(1); and
35 (ii) similar gross receipts taxes paid to other states.

36 (d) "Extracting tax" means a gross receipts tax imposed on the act
37 or privilege of engaging in business as an extractor, and includes the

1 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to
2 other states.

3 (e) "Business", "manufacturer", "extractor", and other terms used
4 in this section have the meanings given in RCW 82.04.020 through
5 82.04.212, notwithstanding the use of those terms in the context of
6 describing taxes imposed by other states.

7 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.32 RCW
8 to read as follows:

9 (1) The legislature finds that accountability and effectiveness are
10 important aspects of setting tax policy. In order to make policy
11 choices regarding the best use of limited state resources the
12 legislature needs information on how a tax incentive is used.

13 (2)(a) A person claiming a tax incentive shall file a complete
14 annual survey with the department. The survey is due by March 31st
15 following any year in which a tax incentive is claimed. The department
16 may extend the due date for timely filing of annual surveys under this
17 section as provided in RCW 82.32.590. The survey shall include the
18 amount of any tax incentive claimed. For a person claiming a credit
19 under section 3 of this act, the survey shall also include the
20 qualified aerospace product development expenditures during the
21 calendar year for which the credit was claimed, whether the credit has
22 been assigned under section 3(4) of this act and who assigned the
23 credit, the number of new products or research projects by general
24 classification, and the number of trademarks, patents, and copyrights
25 associated with the qualified aerospace product development activities
26 for which the credit was claimed. The first survey filed under this
27 subsection shall include employment, wage, and benefit information for
28 the twelve-month period immediately before first use of a tax
29 incentive. The annual survey shall also include the following
30 information for employment positions in Washington:

- 31 (i) The number of total employment positions;
- 32 (ii) Full-time, part-time, and temporary employment positions as a
33 percent of total employment;
- 34 (iii) The number of employment positions according to the following
35 wage bands: Less than thirty thousand dollars; thirty thousand dollars
36 or greater, but less than sixty thousand dollars; and sixty thousand

1 dollars or greater. A wage band containing fewer than three
2 individuals may be combined with another wage band; and

3 (iv) The number of employment positions that have employer-provided
4 medical, dental, and retirement benefits, by each of the wage bands.

5 (b) As part of the annual survey, the department may request
6 additional information necessary to measure the results of, or
7 determine eligibility for, the tax incentive.

8 (c) All information collected under this section, except the amount
9 of any tax incentive claimed, is deemed taxpayer information under RCW
10 82.32.330. Information on the amount of any tax incentive claimed is
11 not subject to the confidentiality provisions of RCW 82.32.330 and may
12 be disclosed to the public upon request, except as provided in (d) of
13 this subsection. If the amount of any tax incentive reported on the
14 survey is different than the amount actually claimed on the taxpayer's
15 tax returns or otherwise allowed by the department, the amount actually
16 claimed or allowed may be disclosed.

17 (d) Persons for whom the actual amount of all tax incentives
18 claimed on the taxpayer's returns or otherwise allowed by the
19 department is less than ten thousand dollars during the period covered
20 by the survey may request the department to treat the tax incentive
21 amount as confidential under RCW 82.32.330.

22 (3) If a person fails to submit a complete annual survey under
23 subsection (2) of this section by the due date or any extension under
24 RCW 82.32.590, the department shall declare the amount of taxes against
25 which any tax incentive was claimed, including the amount of taxes
26 reduced under the preferential rate in RCW 82.04.250(3) and
27 82.04.260(12), for that year to be immediately due and payable. The
28 department shall assess interest, but not penalties, on the taxes
29 against which the tax incentive was claimed. Interest shall be
30 assessed at the rate provided for delinquent excise taxes under this
31 chapter, retroactively to the date the tax incentive was claimed, and
32 shall accrue until the taxes against which the tax incentive was
33 claimed are repaid.

34 (4) The department shall use the information from the annual survey
35 required under subsection (2) of this section to prepare summary
36 descriptive statistics by category. No fewer than three taxpayers
37 shall be included in any category. The department shall report these
38 statistics to the legislature each year by September 1st.

1 (5) In conjunction with the reports due under RCW 82.32.545, by
2 November 1, 2010, and November 1, 2023, the fiscal committees of the
3 house of representatives and the senate, in consultation with the
4 department, shall report to the legislature on the effectiveness of the
5 tax incentives authorized in sections 3 and 6 of this act, RCW
6 82.04.250(3), and 82.04.260(12) in regard to keeping Washington
7 competitive. The report shall measure the effect of the tax incentives
8 authorized in sections 3 and 6 of this act, RCW 82.04.250(3), and
9 82.04.260(12) on job retention, net jobs created for Washington
10 residents, company growth, diversification of the state's economy,
11 cluster dynamics, and other factors as the committees select. The
12 reports shall include a discussion of principles to apply in evaluating
13 whether the legislature should reenact the tax incentives authorized in
14 sections 3 and 6 of this act, RCW 82.04.250(3), and 82.04.260(12).

15 (6) A person who is subject to the requirements in RCW 82.32.545 is
16 not required to file a complete annual survey under this section if the
17 person timely files the annual report required by RCW 82.32.545.

18 (7) For the purposes of this section, "tax incentive" means a tax
19 credit under sections 3 and 6 of this act and the preferential tax
20 rates in RCW 82.04.260(12) and 82.04.250(3).

21 **Sec. 9.** RCW 82.32.330 and 2005 c 326 s 1 and 2005 c 274 s 361 are
22 each reenacted and amended to read as follows:

23 (1) For purposes of this section:

24 (a) "Disclose" means to make known to any person in any manner
25 whatever a return or tax information;

26 (b) "Return" means a tax or information return or claim for refund
27 required by, or provided for or permitted under, the laws of this state
28 which is filed with the department of revenue by, on behalf of, or with
29 respect to a person, and any amendment or supplement thereto, including
30 supporting schedules, attachments, or lists that are supplemental to,
31 or part of, the return so filed;

32 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
33 nature, source, or amount of the taxpayer's income, payments, receipts,
34 deductions, exemptions, credits, assets, liabilities, net worth, tax
35 liability deficiencies, overassessments, or tax payments, whether taken
36 from the taxpayer's books and records or any other source, (iii)
37 whether the taxpayer's return was, is being, or will be examined or

1 subject to other investigation or processing, (iv) a part of a written
2 determination that is not designated as a precedent and disclosed
3 pursuant to RCW 82.32.410, or a background file document relating to a
4 written determination, and (v) other data received by, recorded by,
5 prepared by, furnished to, or collected by the department of revenue
6 with respect to the determination of the existence, or possible
7 existence, of liability, or the amount thereof, of a person under the
8 laws of this state for a tax, penalty, interest, fine, forfeiture, or
9 other imposition, or offense: PROVIDED, That data, material, or
10 documents that do not disclose information related to a specific or
11 identifiable taxpayer do not constitute tax information under this
12 section. Except as provided by RCW 82.32.410, nothing in this chapter
13 shall require any person possessing data, material, or documents made
14 confidential and privileged by this section to delete information from
15 such data, material, or documents so as to permit its disclosure;

16 (d) "State agency" means every Washington state office, department,
17 division, bureau, board, commission, or other state agency;

18 (e) "Taxpayer identity" means the taxpayer's name, address,
19 telephone number, registration number, or any combination thereof, or
20 any other information disclosing the identity of the taxpayer; and

21 (f) "Department" means the department of revenue or its officer,
22 agent, employee, or representative.

23 (2) Returns and tax information shall be confidential and
24 privileged, and except as authorized by this section, neither the
25 department of revenue nor any other person may disclose any return or
26 tax information.

27 (3) This section does not prohibit the department of revenue from:

28 (a) Disclosing such return or tax information in a civil or
29 criminal judicial proceeding or an administrative proceeding:

30 (i) In respect of any tax imposed under the laws of this state if
31 the taxpayer or its officer or other person liable under Title 82 RCW
32 is a party in the proceeding; or

33 (ii) In which the taxpayer about whom such return or tax
34 information is sought and another state agency are adverse parties in
35 the proceeding;

36 (b) Disclosing, subject to such requirements and conditions as the
37 director shall prescribe by rules adopted pursuant to chapter 34.05
38 RCW, such return or tax information regarding a taxpayer to such

1 taxpayer or to such person or persons as that taxpayer may designate in
2 a request for, or consent to, such disclosure, or to any other person,
3 at the taxpayer's request, to the extent necessary to comply with a
4 request for information or assistance made by the taxpayer to such
5 other person: PROVIDED, That tax information not received from the
6 taxpayer shall not be so disclosed if the director determines that such
7 disclosure would compromise any investigation or litigation by any
8 federal, state, or local government agency in connection with the civil
9 or criminal liability of the taxpayer or another person, or that such
10 disclosure would identify a confidential informant, or that such
11 disclosure is contrary to any agreement entered into by the department
12 that provides for the reciprocal exchange of information with other
13 government agencies which agreement requires confidentiality with
14 respect to such information unless such information is required to be
15 disclosed to the taxpayer by the order of any court;

16 (c) Disclosing the name of a taxpayer with a deficiency greater
17 than five thousand dollars and against whom a warrant under RCW
18 82.32.210 has been either issued or filed and remains outstanding for
19 a period of at least ten working days. The department shall not be
20 required to disclose any information under this subsection if a
21 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued
22 a warrant that has not been filed; and (iii) has entered a deferred
23 payment arrangement with the department of revenue and is making
24 payments upon such deficiency that will fully satisfy the indebtedness
25 within twelve months;

26 (d) Disclosing the name of a taxpayer with a deficiency greater
27 than five thousand dollars and against whom a warrant under RCW
28 82.32.210 has been filed with a court of record and remains
29 outstanding;

30 (e) Publishing statistics so classified as to prevent the
31 identification of particular returns or reports or items thereof;

32 (f) Disclosing such return or tax information, for official
33 purposes only, to the governor or attorney general, or to any state
34 agency, or to any committee or subcommittee of the legislature dealing
35 with matters of taxation, revenue, trade, commerce, the control of
36 industry or the professions;

37 (g) Permitting the department of revenue's records to be audited

1 and examined by the proper state officer, his or her agents and
2 employees;

3 (h) Disclosing any such return or tax information to a peace
4 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for
5 official purposes. The disclosure may be made only in response to a
6 search warrant, subpoena, or other court order, unless the disclosure
7 is for the purpose of criminal tax enforcement. A peace officer or
8 county prosecuting attorney who receives the return or tax information
9 may disclose that return or tax information only for use in the
10 investigation and a related court proceeding, or in the court
11 proceeding for which the return or tax information originally was
12 sought;

13 (i) Disclosing any such return or tax information to the proper
14 officer of the internal revenue service of the United States, the
15 Canadian government or provincial governments of Canada, or to the
16 proper officer of the tax department of any state or city or town or
17 county, for official purposes, but only if the statutes of the United
18 States, Canada or its provincial governments, or of such other state or
19 city or town or county, as the case may be, grants substantially
20 similar privileges to the proper officers of this state;

21 (j) Disclosing any such return or tax information to the Department
22 of Justice, including the Bureau of Alcohol, Tobacco ~~((and))~~, Firearms
23 ~~((of the Department of the Treasury))~~ and Explosives within the
24 Department of Justice, the Department of Defense, the Immigration and
25 Customs Enforcement and the Customs and Border Protection agencies of
26 the United States ((Customs Service)) Department of Homeland Security,
27 the Coast Guard of the United States, and the United States Department
28 of Transportation, or any authorized representative thereof, for
29 official purposes;

30 (k) Publishing or otherwise disclosing the text of a written
31 determination designated by the director as a precedent pursuant to RCW
32 82.32.410;

33 (l) Disclosing, in a manner that is not associated with other tax
34 information, the taxpayer name, entity type, business address, mailing
35 address, revenue tax registration numbers, North American industry
36 classification system or standard industrial classification code of a
37 taxpayer, and the dates of opening and closing of business. This

1 subsection shall not be construed as giving authority to the department
2 to give, sell, or provide access to any list of taxpayers for any
3 commercial purpose;

4 (m) Disclosing such return or tax information that is also
5 maintained by another Washington state or local governmental agency as
6 a public record available for inspection and copying under the
7 provisions of chapter 42.56 RCW or is a document maintained by a court
8 of record not otherwise prohibited from disclosure;

9 (n) Disclosing such return or tax information to the United States
10 department of agriculture for the limited purpose of investigating food
11 stamp fraud by retailers;

12 (o) Disclosing to a financial institution, escrow company, or title
13 company, in connection with specific real property that is the subject
14 of a real estate transaction, current amounts due the department for a
15 filed tax warrant, judgment, or lien against the real property;

16 (p) Disclosing to a person against whom the department has asserted
17 liability as a successor under RCW 82.32.140 return or tax information
18 pertaining to the specific business of the taxpayer to which the person
19 has succeeded; (~~or~~)

20 (q) Disclosing such return or tax information in the possession of
21 the department relating to the administration or enforcement of the
22 real estate excise tax imposed under chapter 82.45 RCW, including
23 information regarding transactions exempt or otherwise not subject to
24 tax; or

25 (r) Disclosing the least amount of return or tax information
26 necessary for the reports required in section 8 (4) and (5) of this act
27 when the number of taxpayers included in the reports or any part of the
28 reports cannot be classified to prevent the identification of taxpayers
29 or particular returns, reports, tax information, or items in the
30 possession of the department.

31 (4)(a) The department may disclose return or taxpayer information
32 to a person under investigation or during any court or administrative
33 proceeding against a person under investigation as provided in this
34 subsection (4). The disclosure must be in connection with the
35 department's official duties relating to an audit, collection activity,
36 or a civil or criminal investigation. The disclosure may occur only
37 when the person under investigation and the person in possession of
38 data, materials, or documents are parties to the return or tax

1 information to be disclosed. The department may disclose return or tax
2 information such as invoices, contracts, bills, statements, resale or
3 exemption certificates, or checks. However, the department may not
4 disclose general ledgers, sales or cash receipt journals, check
5 registers, accounts receivable/payable ledgers, general journals,
6 financial statements, expert's workpapers, income tax returns, state
7 tax returns, tax return workpapers, or other similar data, materials,
8 or documents.

9 (b) Before disclosure of any tax return or tax information under
10 this subsection (4), the department shall, through written
11 correspondence, inform the person in possession of the data, materials,
12 or documents to be disclosed. The correspondence shall clearly
13 identify the data, materials, or documents to be disclosed. The
14 department may not disclose any tax return or tax information under
15 this subsection (4) until the time period allowed in (c) of this
16 subsection has expired or until the court has ruled on any challenge
17 brought under (c) of this subsection.

18 (c) The person in possession of the data, materials, or documents
19 to be disclosed by the department has twenty days from the receipt of
20 the written request required under (b) of this subsection to petition
21 the superior court of the county in which the petitioner resides for
22 injunctive relief. The court shall limit or deny the request of the
23 department if the court determines that:

24 (i) The data, materials, or documents sought for disclosure are
25 cumulative or duplicative, or are obtainable from some other source
26 that is more convenient, less burdensome, or less expensive;

27 (ii) The production of the data, materials, or documents sought
28 would be unduly burdensome or expensive, taking into account the needs
29 of the department, the amount in controversy, limitations on the
30 petitioner's resources, and the importance of the issues at stake; or

31 (iii) The data, materials, or documents sought for disclosure
32 contain trade secret information that, if disclosed, could harm the
33 petitioner.

34 (d) The department shall reimburse reasonable expenses for the
35 production of data, materials, or documents incurred by the person in
36 possession of the data, materials, or documents to be disclosed.

37 (e) Requesting information under (b) of this subsection that may

1 indicate that a taxpayer is under investigation does not constitute a
2 disclosure of tax return or tax information under this section.

3 (5) Any person acquiring knowledge of any return or tax information
4 in the course of his or her employment with the department of revenue
5 and any person acquiring knowledge of any return or tax information as
6 provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this
7 section, who discloses any such return or tax information to another
8 person not entitled to knowledge of such return or tax information
9 under the provisions of this section, is guilty of a misdemeanor. If
10 the person guilty of such violation is an officer or employee of the
11 state, such person shall forfeit such office or employment and shall be
12 incapable of holding any public office or employment in this state for
13 a period of two years thereafter.

14 **Sec. 10.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to
15 read as follows:

16 (1) If the department finds that the failure of a taxpayer to file
17 an annual survey under RCW 82.04.4452 or section 8 of this act by the
18 due date was the result of circumstances beyond the control of the
19 taxpayer, the department shall extend the time for filing the survey.
20 Such extension shall be for a period of thirty days from the date the
21 department issues its written notification to the taxpayer that it
22 qualifies for an extension under this section. The department may
23 grant additional extensions as it deems proper.

24 (2) In making a determination whether the failure of a taxpayer to
25 file an annual survey by the due date was the result of circumstances
26 beyond the control of the taxpayer, the department shall be guided by
27 rules adopted by the department for the waiver or cancellation of
28 penalties when the underpayment or untimely payment of any tax was due
29 to circumstances beyond the control of the taxpayer.

30 **Sec. 11.** RCW 82.32.600 and 2005 c 514 s 1002 are each amended to
31 read as follows:

32 (1) Persons required to file surveys under RCW 82.04.4452 or
33 section 8 of this act must electronically file with the department all
34 surveys, returns, and any other forms or information the department
35 requires in an electronic format as provided or approved by the

1 department(~~(, unless the department grants relief under subsection (2)~~
2 ~~of this section)~~). As used in this section, "returns" has the same
3 meaning as "return" in RCW 82.32.050.

4 ~~(2) ((Upon request, the department may relieve a person of the~~
5 ~~obligations in subsection (1) of this section if the person's taxes~~
6 ~~have been reduced a cumulative total of less than one thousand dollars~~
7 ~~from all of the credits, exemptions, or preferential business and~~
8 ~~occupation tax rates, for which a person is required to file an annual~~
9 ~~survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570,~~
10 ~~82.32.560, 82.60.070, or 82.63.020.~~

11 ~~(3) Persons who no longer qualify for relief under subsection (2)~~
12 ~~of this section will be notified in writing by the department and must~~
13 ~~comply with subsection (1) of this section by the date provided in the~~
14 ~~notice.~~

15 ~~(4))~~ Any survey, return, or any other form or information required
16 to be filed in an electronic format under subsection (1) of this
17 section is not filed until received by the department in an electronic
18 format.

19 (3) The department may waive the electronic filing requirement in
20 subsection (1) of this section for good cause shown.

21 **Sec. 12.** RCW 82.04.4463 and 2005 c 514 s 501 are each amended to
22 read as follows:

23 (1) In computing the tax imposed under this chapter, a credit is
24 allowed for property taxes and leasehold excise taxes paid during the
25 calendar year.

26 (2) The credit is equal to:

27 (a)(i)(A) Property taxes paid on new buildings, and land upon which
28 this property is located, built after December 1, 2003, and used
29 exclusively in manufacturing commercial airplanes or components of such
30 airplanes; and

31 (B) Leasehold excise taxes paid with respect to a building built
32 after January 1, 2006, the land upon which the building is located, or
33 both, if the building is used exclusively in manufacturing commercial
34 airplanes or components of such airplanes; or

35 (ii) Property taxes attributable to an increase in assessed value
36 due to the renovation or expansion, after December 1, 2003, of a

1 building used exclusively in manufacturing commercial airplanes or
2 components of such airplanes; and

3 (b) An amount equal to property taxes paid on machinery and
4 equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired
5 after December 1, 2003, multiplied by a fraction. The numerator of the
6 fraction is the total taxable amount subject to the tax imposed under
7 RCW 82.04.260(~~((13))~~) (11) and the denominator of the fraction is the
8 total taxable amount subject to the tax imposed under all manufacturing
9 classifications in chapter 82.04 RCW, required to be reported on the
10 person's returns for the calendar year before the calendar year in
11 which the credit under this section is earned. No credit is available
12 under this subsection (2)(b) if either the numerator or the denominator
13 of the fraction is zero. If the fraction is greater than or equal to
14 nine-tenths, then the fraction is rounded to one. For purposes of this
15 subsection, "returns" means the combined excise tax returns for the
16 calendar year.

17 (3) For the purposes of this section, "commercial passenger
18 airplane" and "component" have the meanings given in RCW 82.32.550.

19 (4) A person taking the credit under this section is subject to all
20 the requirements of chapter 82.32 RCW. In addition, the person must
21 report as required under RCW 82.32.545. A credit earned during one
22 calendar year may be carried over to be credited against taxes incurred
23 in a subsequent calendar year, but may not be carried over a second
24 year. No refunds may be granted for credits under this section.

25 (5) In addition to all other requirements under this title, a
26 person taking the credit under this section must report as required
27 under RCW 82.32.545.

28 (6) This section expires July 1, 2024.

29 NEW SECTION. **Sec. 13.** Section 12 of this act applies with respect
30 to leasehold excise taxes paid on or after January 1, 2007.

31 NEW SECTION. **Sec. 14.** Sections 1 through 11 of this act take
32 effect July 1, 2006.

33 NEW SECTION. **Sec. 15.** Sections 12 and 13 of this act take effect
34 January 1, 2007."

1 On page 1, line 2 of the title, after "businesses;" strike the
2 remainder of the title and insert "amending RCW 82.04.250, 82.04.440,
3 82.32.590, 82.32.600, and 82.04.4463; reenacting and amending RCW
4 82.04.260 and 82.32.330; adding a new section to chapter 82.08 RCW;
5 adding a new section to chapter 82.12 RCW; adding new sections to
6 chapter 82.04 RCW; adding a new section to chapter 82.32 RCW; creating
7 a new section; providing effective dates; and providing expiration
8 dates."

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